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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,445	03/19/2001	Kenjiro Matoba	OKI 273	7189
23995	7590	03/23/2006	EXAMINER	
RABIN & Berdo, PC 1101 14TH STREET, NW SUITE 500 WASHINGTON, DC 20005			FLANDERS, ANDREW C	
			ART UNIT	PAPER NUMBER
			2615	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/810,445	MATOBA, KENJIRO	
Examiner	Art Unit		
Andrew C. Flanders	2644		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 14 December 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1,3-6 and 8-15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,3-6 and 8-15 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date . . . . .  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: . . . . .

## DETAILED ACTION

### ***Response to Arguments***

In view of the appeal brief filed on 14 December 2005, PROSECUTION IS HEREBY REOPENED. A new rejection is set forth below. To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 3 – 6, 8 – 16** are rejected under 35 U.S.C. 102(e) as being anticipated by Uchiyama (U.S. Patent 6,373,421).

Regarding **Claims 1, 6 and 11**, Uchiyama discloses:

A reproducing apparatus comprising:

an input terminal for inputting audio digital data including a sequence of data blocks each of which consists of a predetermined number of units of data (i.e. encoded data is split into voice blocks each having a predetermined size and then stored at a time of recording; col. 4 lines 10 – 15);

a thinning-out unit for thinning out part of the audio digital data on a data block basis (i.e. in Fig. 6 blocks b and d are removed);

a conversion unit for varying the amplitude of either a sequence of units of data including the last unit of data of a data block immediately preceding a thinned data block or a sequence of units of data including the first unit of a data block immediately following the thinned data block, so that the last unit of the immediately preceding data block will be concatenated with the first unit of data immediately following data block along a smooth amplitude-varying curve (Fig. 3 and col. 5 lines 13 – 39 and col. 2 lines 7 – 27),

a reproducing unit for reproducing both the units of data converted by said conversion unit and units of data not converted by said conversion unit (Fig. 1 and col. 5 lines 13 – 39)

wherein the amplitude-varying curve is calculated to a simply increasing or decreasing function (equations 2 and 3 and col. 5 lines 13 – 39).

Regarding **Claims 3 and 8**, in addition to the elements stated above regarding claims 1 and 6, Uchiyama further discloses:

wherein the simply increasing or decreasing function is determined on the basis of the difference between the amplitude of the last unit of data of the data block immediately preceding the thinned data block and the amplitude of the first unit of data of the data block immediately following the thinned data block, the amplitude of the units of data of which the amplitude is to be varied in the immediately following data block, position information of the unit of data, and the number of data in the sequence of units of data (col. 5 lines 13 – 39).

Regarding **Claims 4 and 9**, in addition to the elements stated above regarding claims 1 and 6, Uchiyama further discloses:

wherein said conversion unit integrates the sequence of units of data the amplitude of which has been varied (i.e. after the units are varied, the blocks are put together (integrated) Figs. 3 and 6).

Regarding **Claims 5 and 10**, in addition to the elements stated above regarding claim 1, Uchiyama further discloses:

wherein the units of data of each data block are compressed audio data, each data block further includes header information from which the first unit of data of the data block is obtained, and units of data following the first unit of data are decompressed on the basis of the immediately preceding unit of data of the data block (Fig. 5).

Regarding **Claim 12**, in addition to the elements stated above regarding claim 11, Uchiyama further discloses:

wherein the conversion unit comprise means for varying the amplitude of the units of data adjacent the boundaries in accordance with a monotonic increasing or a monotonic decreasing function (equations 2 and 3 and col. 5 lines 13 – 39).

Regarding **Claim 13**, in addition to the elements stated above regarding claim 12, Uchiyama further discloses:

wherein the function is a linear function (equations 2 and 3 and col. 5 lines 13 – 39).

Regarding **Claim 14**, in addition to the elements stated above regarding claim 11, Uchiyama further discloses:

wherein the units of data are uncompressed audio data (i.e. the initial audio data is uncompressed before it arrives at the ADPCM section).

Regarding **Claim 15**, in addition to the elements stated above regarding claim 11, Uchiyama further discloses:

wherein the units of data are compressed audio data (i.e. ADPCM data).

Regarding **Claim 16**, in addition to the elements stated above regarding claim 11, Uchiyama further disclose:

wherein the first sequence of data blocks has about twice the number of data blocks as the second sequence, the second sequence being formed by removing every other data block from the first sequence (Figs. 3 and 6).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Curickshank (U.S. Patent Application Publication 2003/0158734) teaches similar discontinuity correction in paragraph 35.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Flanders whose telephone number is (571) 272-7516. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7546. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SINH TRAN  
SUPERVISORY PATENT EXAMINER

acf